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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,755	08/28/2001	Nikhil M. Deshpande	884.493US1	5778

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EXAMINER
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CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2452

NOTIFICATION DATE	DELIVERY MODE
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03/02/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/940,755	<b>Applicant(s)</b> DESHPANDE, NIKHIL M.	
	<b>Examiner</b> DOHM CHANKONG	<b>Art Unit</b> 2452	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This non-final action is in response to Applicant's amendment filed on 10/27/2009.

Claims 1, 4, and 22-25 are amended. Claims 1-25 are presented for further examination.

### **I. RESPONSE TO ARGUMENTS**

#### **A. § 101 rejection of claims 22-25**

Applicant's argument to claims 22-25 overcome the § 101 rejection. The rejection is therefore withdrawn.

#### **B. § 103 rejection of claims 1-25**

The examiner maintains the rejection of claims 1-25 under § 103 for the reasons set forth in the examiner's answer which was filed on 8/28/2009.

### **II. CLAIM REJECTIONS - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**A. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joyce et al. (U.S. Patent Number 6,798,358) ("Joyce"), in view of Carey et al. (U.S. Patent Number 6,714,793), ("Carey").**

#### **Claims, 1, 13, and 19**

Joyce discloses a location-based content delivery system and method comprising:

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sending a first immediate message from a location, wherein the first immediate message comprises a request for information (see Joyce col. 7, lines 25-30); and

receiving a second immediate message, wherein the second message comprises a response to the request, wherein the response is dependent on the location (see Joyce col. 7, lines 66-67 through col. 8 line 1).

While Joyce discloses that the mobile terminal may query the server via a SMS message, Joyce does not explicitly disclose that the messages are instant or immediate messages. Nonetheless instant message communication among wireless and non-wireless environments is well known as evidenced by Carey.

In similar art, Carey discloses a system and method for instant message communication in a wireless and non-wireless environment wherein messages are sent from a mobile unit device over a wireless communication network (col. 1, lines 60-65). Given the teachings of Carey, it would have been obvious to a person having ordinary skill in the art to modify the system disclosed by Joyce to include instant messaging capabilities in order to provide subscribers with the benefits of real-time communication on a constantly open communication channel not only in hardwired Internet systems but also in a wireless environment.

It would be advantageous to communicate via instant text message because text messaging as compared to voice communications is less costly since it utilizes less bandwidth, and is more efficient than playing phone tag or waiting for e-mail replies. See Carey, col. 1, lines 47-58. Accordingly, text instant messaging is an efficient cost effective way of communicating. Therefore the aforementioned limitation would have been an obvious modification to the system disclosed by Joyce.

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**Claims 2, 15, and 20-21**

The combined system of Joyce and Carey discloses that the first immediate message further comprises sending the first immediate message to a user name identified in a buddy list (see Carey col. 8, lines 8-18).

**Claims 4 and 22**

The combined system of Joyce and Carey discloses a system and method comprising: receiving a first instant message from a sender (see Joyce col. 7, lines 25-30); determining a location of the sender (see Joyce col. 7, lines 30-39); and sending a second instant message to the sender, wherein the contents of the second instant message are dependent on the location of the sender (see Joyce col. 7, lines 40-59, lines 66-67 through col. 8, line 1, and lines 19-22).

While Joyce discloses the system substantially as claimed, Joyce does not disclose that the messages that are delivered are instant messages. Nonetheless instant message communication among wireless and non-wireless environment is well known as evidenced by Carey. In similar art Carey discloses a system and method for instant message communication in a wireless and non-wireless environment wherein messages are sent from a mobile unit device over a wireless communication network (col. 1, lines 60-65).

Given the teachings of Carey, it would have been obvious to a person having ordinary skill in the art to modify the system disclosed by Joyce to include instant messaging capabilities in order to provide subscribers with the benefits of real-time communication not only in hardwired Internet systems but also in a wireless environment. It would be advantageous to communicate via instant text messages because it is less costly and it utilizes less bandwidth.

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See Carey, col. 1, lines 47-58. Therefore the aforementioned limitation would have been an obvious modification.

**Claims 5, 11, and 23**

The combined system of Joyce and Carey discloses that the method further comprises: parsing contents of the first instant message to determine a meaning of the contents (see Joyce col. 7, lines 30-39), wherein the contents of the second instant message are further dependent on the meaning (col. 7, lines 46-59).

**Claims 6 and 24**

The combined system of Joyce and Carey discloses the method further comprising: finding information related to the meaning of the contents of the first instant message (see Joyce col. 7, lines 30-35); and building the contents of the second instant message based on the information (col. 7, lines 46-59).

**Claim 7**

The combined system of Joyce and Carey discloses a server, comprising: data indicating a location of a mobile device (see Joyce col. 3, lines 65-67 through col. 4, lines 1-2); and a personal-assistance controller to send information to the mobile device, wherein the information is based on the location of the mobile device (col. 7, lines 40-59 and col. 8, lines 19-22).

**Claims 8, 14, and 16**

The combined system of Joyce and Carey discloses wherein the mobile device (see Carey Fig. 1 (36)) is connected via a long-lived connection (30, public or private network) to the instant-messaging server (40).

**Claim 9**

The combined system of Joyce and Carey discloses wherein the personal-assistance controller (application server, 18) is to send an instant message to the mobile device, wherein the instant message comprises the information (see Joyce col. 7, lines 55-59, lines 66-67).

**Claim 10**

The combined system of Joyce and Carey discloses a location database comprising the location of the mobile device and the information, wherein the information is specific to the location (see Joyce col. 3, lines 65-67 through col. 4, lines 1-2).

**Claim 25**

The combined system of Joyce and Carey discloses that the location of the sender comprises a location of a hotspot access point (see Joyce Fig. 1 wireless communication network, 12).

**Claims 12 and 17**

The claims contain limitations substantially the same as those previously rejected in claims 1, 4, and 7. Therefore the same grounds of rejection are applicable. Additionally the hotspot access point is functionally equivalent to the wireless communication network 12.

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**Claim 18**

The combined system of Joyce and Carey discloses that the personal-assistance controller is to determine the location of the one of the plurality of hotspot- access points via the presence data (see Joyce col. 36-40).

**III. CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday to Friday [10 am - 6 pm].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571)272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOHM CHANKONG/  
Primary Examiner, Art Unit 2452